

Indiana Department of Education

Division of Exceptional Learners

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 1693.01  
COMPLAINT INVESTIGATOR: Steve Starbuck  
DATE OF COMPLAINT: February 16, 2001  
DATE OF REPORT: March 30, 2001  
REQUEST FOR RECONSIDERATION: yes/no change  
DATE OF CLOSURE: October 15, 2001

**COMPLAINT ISSUES:**

Whether the Clarksville Community School Corporation and the Greater Clark County Special Education Cooperative violated:

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written, specifically:

- a. failing to provide a computer and a calculator for the student's use for all of the student's work;
- b. failing to implement identified modifications and accommodations (e.g., tapes, study guides, and lecture notes);
- c. failing to provide computer keyboarding one day per week;
- d. failing to implement a daily log ("passport"); and
- e. failing to provide special education support for 74% of the instructional day.

511 IAC 7-17-72 and 511 IAC 7-21-2(a) with regard to the school's alleged failure to assign a teacher of record for a student with a disability.

511 IAC 7-27-4(c) and 511 IAC 7-27-6(a)(4) with regard to the school's alleged failure to utilize the case conference committee to determine if the student would participate in a particular local assessment.

511 IAC 7-21-2(b) with regard to the school's alleged failure to ensure that:

- a. the use of an instructional assistant in the classroom is done under the direction and supervision of a licensed teacher; and

511 IAC 7-27-9(b) with regard to the school's alleged failure to make available to a student with a disability the variety of educational and non-academic activities that it makes available to students without disabilities, specifically, failing to permit the student to participate in a band solo/ensemble contest and intramural athletic activities.

511 IAC 7-27-7(b) and 511 IAC 7-17-72 with regard to the school's alleged failure to ensure the student's teacher of record:

- a. regularly monitored the implementation of the student's IEP; and
- b. assured that the supplementary aides, services, modifications, and accommodations identified in the IEP were implemented in accordance with the IEP.

During the course of the investigation, an additional issue was identified, which is:

511 IAC 7-27-6(a)(7)(B) with regard to the school's alleged failure to include in the student's IEP a statement of how the parent will be informed of the student's progress made toward annual goals.

The complaint investigation report was originally due on March 16, 2001; however, due to the need to obtain additional information from the school, an extension was approved by the state director of special education extending the deadline until March 30, 2001.

#### **FINDINGS OF FACT:**

1. The student is thirteen years old, attends the seventh grade, and has been determined eligible for special education due to autism and a communication disorder.
2. Form 9.7A of the IEP dated March 2, 2000, lists the following information: for math, "Allow use of computational aids (calculator, chart, etc.); and for writing, "may be beneficial to allow [student's name] to use the computer." The duration of the IEP is from August 16, 2000, through June 1, 2001. The director provided a signed written statement from three of the student's teachers which reflects since the beginning of the school year the student has had access to a multiplication chart (placed on the student's desk daily), a mastering multiplication wall chart, and a calculator when the assignment is not a testing procedure. The teachers' signed written statement indicates the student has used a computer for all extensive writing assignments in all academic subject areas since the beginning of the school year. The teachers report the student received an Alpha-Smart computer on February 8, 2001, and now takes all notes and written assignments on the computer.
3. Form 9.7A of the IEP dated March 2, 2000, lists the following information: for reading, "Utilize study guides/outlines"; for writing, "Provide copies of lecture notes (carbon or Xerox)"; for assignments, "Provide study sheets/guides/tapes"; and for tests, quizzes, grades, "Provide study guides with key concepts and vocabulary in advance of tests or quizzes. In a signed written statement from three of the student's teachers the following information was provided: "Language, Math, Science and Social Studies have always allowed [student's name] to take tests that are shortened and orally read. Computational aids, including a computer, were used when testing. Copies of vocabulary words were given at the beginning of each unit and definitions were found in small group settings or in a game format. This allowed teachers to assess student's knowledge of material before testing. In Science and Social Studies hand-on testing methods were used to test him aloud. During testing students are allowed to use in-class study guides and vocabulary sheets." In a memorandum dated March 23, 2001, the special education staff at the student's school provided a list of accommodations/modifications that have been utilized for the student since the beginning of school year. The memorandum reflects that the student was provided with all accommodations/modifications for reading, math, writing, assignments, test/quizzes/grades, and general strategies specified in the student's IEP dated March 2, 2000.
4. The parent alleges the school is not providing the student with computer keyboarding one day per week. Form 9.3, Review of IEP/ITP/Discussion, of the IEP dated March 2, 2001, reflects that the parent would like the student to practice on a computer one day a week during study skills class. There is no notation in the IEP/Case Conference Summary Report that indicates the CCC discussed this issue at greater length or came to an agreement on this issue. The director reports this information was recorded only as a suggestion made by the parent at the CCC meeting, and was not determined as a service that would be provided to the student. The director reports as of February 23, 2001, the student is being allowed to practice on a computer one day per week.

5. The parent reports the teaching staff has not kept the student's daily log (passport) updated on a regular basis; therefore, problems arise for which she is not made aware of in a timely manner. One annual goal form for the student lists the following goal: "I will make a passing grade in study skills." One of the objectives listed on the form to attain this goal reads as follows: "I will keep a daily list of assignments in the passport." The director provided a copy of a monthly calendar for February, 2001, which has progress and assignment information written on it from the student's teacher to the parent on nine occasions. There are a few other notations made on this document, but the author is not identifiable. The director reports this document is the student's "passport." The director reports the school does not have copies of the "passport" for other months as these were given to the parent. No other documentation concerning this complaint issue was provided by the school.
6. Form 9.11 of the IEP dated March 2, 2000, indicates the student will receive special education support for 74% of the instructional day. The director reports the student has only been receiving special education support for 63% of the instructional day.
7. According to written statements provided by the director and the assistant principal, the student has always been assigned a teacher of record. In a letter written by the assistant principal on March 20, 2001, it is noted that the student's teacher of record was changed on August 24, 2000, to assist with a more equitable distribution of the paperwork required of the four special needs teachers assigned to the student's school. The director reports the student's teacher of record has received specialized training in the area of autism. The director acknowledges the student's teacher of record was changed on August 24<sup>th</sup>, and that the parent was not notified of the change until November 29, 2001.
8. Form 9.11 of the IEP dated March 2, 2000, indicates the student will participate in state mandated testing and district testing. The parents signed the IEP indicating their approval with the recommendations made by the CCC, and giving permission for the IEP to be implemented.
9. The director acknowledges the student's teacher did not adequately supervise the student's instructional assistant. The director reports that the instructional assistant implemented the teacher's lesson plans, and had been providing direct instruction to the student. The director reports this practice has ceased, and that the teacher is now providing direct instruction to the student and the aide is only reinforcing those concepts already taught.
10. The parent states she informed the band director that she would like the student to participate in a band solo/ensemble contest to be held on February 3, 2001. The director and assistant principal report that the band director asked all of the students if they would like to participate in a band solo/ensemble contest. Both the director and assistant principal report the student declined to participate. The assistant principal reports that the parent did not make this request known to any of the administrative staff. The band director is no longer employed by the school.
11. There are nine separate annual goal sheets in the student's IEP dated March 2, 2000. At the bottom of each page is the following pre-printed statement: "SCHEDULE FOR ASSESSING PROGRESS: Every grading period a report card and/or narrative report will be sent home." There is no provision on the form which allows the CCC to determine how and when the parent will be informed of the student's progress made toward annual goals. As the pre-printed statement is written, the parent cannot be certain of how they will be informed of the student's progress, nor is there any indication that the CCC considered the option that the parent may wish to be informed of the student's progress more frequently than every grading period or in a different manner.

## CONCLUSIONS:

1. Finding of Fact #2 reflects that the school has provided the student with use of a calculator and a computer during the 2000-2001 school year. Therefore, no violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #3 indicates that the school provided the student with the accommodations and modifications identified in the student's IEP dated March 2, 2000. Therefore, no violation of 511 IAC 7-27-7(a) is found.
3. Finding of Fact #4 reflects that the CCC never made a decision with regard to the parent's desire to have the student practice on a computer one day per week. Therefore, no violation of 511 IAC 7-27-7(a) is found.
4. Finding of Fact #5 indicates the school failed to document that the daily log ("passport") was maintained as specified in the student's IEP dated March 2, 2000. Therefore, a violation of 511 IAC 7-27-7(a) is found.
5. Finding of Fact #6 reflects the school failed to provide the student with special education support for 74% of the instructional day as specified in the IEP dated March 2, 2000. Therefore, a violation of 511 IAC 7-27-7(a) is found.
6. Finding of Fact #7 indicates that the school has ensured that the student has always been assigned a teacher of record. Therefore, no violations of 511 IAC 7-17-72 and 511 IAC 7-21-2(a) are found.
7. Finding of Fact #8 reflects that the school utilized the CCC to determine if the student would participate in a particular local assessment. Therefore, no violations of 511 IAC 7-27-4(c) and 511 IAC 7-27-6(a)(4) are found.
8. Finding of Fact #9 indicates the use of an instructional assistant in the classroom was not done under the direction and supervision of a licensed teacher. Therefore, a violation of 511 IAC 7-21-2(b) is found.
9. Finding of Fact #10 reflects the student was offered the opportunity to participate in a band solo/ensemble contest, but chose not to participate in the extracurricular activity. Therefore, no violation of 511 IAC 7-27-9(b) is found.
10. Finding of Facts #5, #6, #9, and #11 indicate the school failed to ensure that the teacher of record regularly monitored the implementation of the student's IEP. Therefore, violations of 511 IAC 7-27-7(b) and 511 IAC 7-17-72 are found.
11. Finding of Fact #5 indicates that the school failed to ensure that the teacher of record assured that supplementary aides identified in the IEP were implemented in accordance with the IEP. Therefore, violations of 511 IAC 7-27-(b) and 511 IAC 7-17-72 are found.
12. Finding of Fact #11 reflects that the pre-printed statement that a report card and/or narrative report will be used to inform the parent of the student's progress made toward annual goals does not permit the CCC to determine the manner or frequency at which the parents will be informed of the student's progress. Using "and/or" does not provide a clear indication to staff or parents about how progress is expected to be reported. Therefore, a violation of 511 IAC 7-27-6(a)(7)(B) is found.

**The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The Clarksville Community School Corporation and the Greater Clark County Special Education Cooperative shall:

1. Inservice all appropriate personnel as to the requirements specified in 511 IAC 7-17-72, 511 IAC 7-21-2(b), 511 IAC 7-27-6(a)(7)(B), 511 IAC 7-27-7(a) and (b). Submit documentation to the Division that all inservice training has been completed no later than May 11, 2001. The documentation should include a list or an agenda of all issues discussed, any handouts that were distributed, and a list of attendees by name and title.
  2. Revise the current IEP annual goal form to include a statement of how the student's parents will be regularly informed, at least as often as parents are informed of their nondisabled student's progress, of the student's progress made toward the annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the twelve month period. The revision must also clearly identify how frequently the parents will be notified and permit an array of options for how the parent will be notified of the student's progress. A copy of the revised format shall be submitted to the Division for approval no later than April 27, 2001.
  3. Convene a CCC meeting to determine:
    - a. the student's need for compensatory educational services; and
    - b. how and when the parents will be informed of the student's progress made toward annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the twelve month period.Submit to the Division a copy of the student's revised IEP and Case Conference Summary Report no later than May 11, 2001.
1. Submit to the Division no later than April 27, 2001, a letter of assurance which ensures all IEPs developed for the student will be implemented as written. The letter of assurance shall be signed by the student's teacher of record and the director.